



Ohio Legislative Service Commission

Bill Analysis

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Sens. Bacon and Hughes, Patton

BILL SUMMARY

- Requires that any judicial release hearing be held not less than 30 days or more than 60 days after the date on which the motion is filed, requires a prosecuting attorney who receives notice that a court has scheduled a judicial release hearing with respect to a first, second, or third degree felony offense of violence to send written notice to the victim or the victim's representative of the hearing regardless of whether they requested notification, and requires the prosecuting attorney to send written notice of any judicial release to the victim or the victim's representative.
- Revises the Crime Victims Rights Law by: (1) providing that, if a defendant is incarcerated for a first, second, or third degree felony offense of violence or a juvenile offender has been charged with such an act, the notices that a prosecutor must give to a victim regarding a hearing for judicial release or under the Sexually Violent Predator Sentencing Law and the notices that a custodial agency must give to a victim must be given regardless of whether the victim requested notice, (2) requiring the custodial agency to give similar notice to the prosecutor, the sentencing court, the law enforcement agency that arrested the defendant or juvenile offender, and any other person who requests notification, (3) requiring a custodial agency to keep a record of notices sent pursuant to that Law, and (4) requiring a custodial agency to give the victim some of the notices it must provide under that Law at least 60 days before the event about which the notice is given.
- Requires the Adult Parole Authority (APA) to adopt rules providing for a victim conference prior to a parole hearing for a prisoner incarcerated for a first, second, or third degree felony offense of violence and requires the rules to provide for at least: (1) attendance by the victim, family members, the victim's representative, and, if practicable, other individuals, (2) allotment of at least one hour for the conference, (3) the order in which persons may speak and permission for any person to speak if

time allows, (4) news media attendance upon request of the victim, family members, the victim's representative, or a victims'-rights advocate, and (5) recording of the conference.

- Requires the APA to provide notices to a prosecuting attorney, judge, and victim or victim's representative of its recommendation of a pardon or commutation of sentence, or its granting of a parole, at least 60 days before the event and specifies that, if a defendant is incarcerated for a first, second, or third degree felony offense of violence, those notices must be given regardless of whether the victim requested notice.
- Requires the APA to notify the prosecutor at least two weeks prior to the release of a convict serving a sentence of life imprisonment from confinement in any state correctional institution pursuant to a pardon, commutation of sentence, parole, or completed prison term and requires notice to the prosecutor of the actual release pursuant to a pardon, commutation of sentence, parole, or completed prison term of a convict serving a sentence for committing a first, second, or third degree felony or serving a sentence of life imprisonment.
- Changes the period of time for APA notice to a court of the pendency of the transfer of a prisoner to transitional control, notice to a victim prior to transferring a prisoner to transitional control, and posting on its Internet database of a pending transfer of a prisoner to transitional control, so that the notices must be given at least 60 days prior to the particular event, and specifies that, if a prisoner is incarcerated for a first, second, or third degree felony offense of violence, the notices to a victim of the upcoming transfer of a prisoner to transitional control must be given regardless of whether the victim requested notice.
- Expands the categories of prisoners for whom post-release control is mandatory upon release, modifies the duration of the periods of mandatory post-release control, and specifies that at least 30 days before the prisoner is released from imprisonment the Department of Rehabilitation and Correction (DRC) must send notice to the victim, the victim's family, the prosecuting attorney, the law enforcement agency that arrested the prisoner, and any other person who requests notification of the date on which the prisoner will be released, the period for which the prisoner will be under parole or post-release control supervision, and the terms and conditions of the parole or post-release control.
- Changes the period of time within which DRC must include on its Internet database information regarding an upcoming APA recommendation of a pardon or commutation of sentence for an inmate, parole hearing for an inmate, or transitional control hearing for an inmate, so that the information must be included at least 60

days before the recommendation or hearing, and specifies that, for ten years after the final discharge of an inmate who was imprisoned for a first, second, or third degree felony offense of violence, DRC must keep on the database all the information required to be on the database relative to the inmate.

- Requires DRC to: (1) at the end of each quarter, submit to the chairpersons of the committees of the Senate and the House of Representatives that consider criminal justice legislation a report on the number and results of parole hearings conducted during the quarter and a list of persons incarcerated for committing offenses of violence who were granted parole and a summary of the terms and conditions of their parole, and (2) upon request, provide a detailed statement of the reasons why a particular prisoner was granted parole to the law enforcement agency that arrested the prisoner, the prosecuting attorney, or any member of the General Assembly.
- Specifies that Parole Board-related rules adopted by the APA's Chief must prohibit the Parole Board from considering sentences in effect on and after July 1, 1996, in making determinations relative to the release of an inmate who is imprisoned for an offense committed before July 1, 1996.
- Permits a victim of a first, second, or third degree felony offense of violence (aggravated murder or murder under existing law), the victim's representative, or the spouse, parent or parents, sibling, or child or children of the victim to request the Parole Board to hold a full Board hearing regarding the proposed parole or re-parole of the offender, specifies that at least 30 days before a full Board hearing the Board must send notice of the hearing to the victim, the victim's family, the prosecuting attorney, and the law enforcement agency that arrested the offender, and specifies that, if the victim of the original offense died as a result of the offense and the offense was a first, second, or third degree felony offense of violence, the victim's family may show at a full Board hearing a video recording memorializing the victim.
- Specifies that its victim notice-related provisions regarding judicial release, in the Crime Victims Rights Law, regarding a pending commutation of sentence, parole, or transitional control, regarding post-release control, and regarding full Board hearings of the Parole Board, all as described above, are to be known as "Roberta's Law."
- Expands the offense of "voluntary manslaughter" to also prohibit a person from engaging with a sexual motivation in any conduct currently prohibited under the offense.

- Provides that: (1) "voluntary manslaughter" when committed with a sexual motivation is a sexually oriented offense for purposes of the Sex Offender Registration and Notification Law, (2) an offender who commits, attempts or conspires to commit, or engages in complicity in committing voluntary manslaughter with a sexual motivation is a Tier III sex offender/child-victim offender, and (3) a delinquent child who commits, attempts or conspires to commit, or engages in complicity in committing voluntary manslaughter with a sexual motivation is a public registry-qualified juvenile offender registrant if the juvenile court imposes a serious youthful offender dispositional sentence on the child, the child was 14, 15, 16, or 17 years of age at the time of committing the act, and the court classifies the child a juvenile offender registrant.

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CONTENT AND OPERATION

Judicial release

In general and time of hearing

Existing law provides that, upon the filing of a motion by an "eligible offender" or upon its own motion, a sentencing court may reduce the stated prison term of the offender through a judicial release. A specified period of time must expire after the offender begins serving his or her sentence before the offender may file a motion for judicial release. The specified period of time depends upon the offense for which the offender is serving the prison term. "Eligible offender" means any person serving a stated prison term of ten years or less when either the stated prison term does not include a mandatory prison term, or the stated prison term includes a mandatory prison term, and the person has served the mandatory prison term. "Eligible offender" does not include a person serving a state prison term for any of a list of specified felonies committed while the person held a public office on Ohio. Upon receipt of a timely motion by an eligible offender or upon its own motion, the court may schedule a hearing on the motion. The court may deny the motion without a hearing but cannot grant the motion without a hearing. The law specifies procedures that govern judicial release proceedings.

If a court receives a timely motion for judicial release filed by an eligible offender or makes a timely motion for judicial release and schedules a hearing on the motion, the court must conduct the hearing in open court within a specified period of time. The bill modifies the time within which the court must conduct the hearing. Under the bill, except for an authorized delay described below, the hearing must be conducted in open

court *not less than 30 days or more than 60 days* after the date on which the motion is filed. Currently, except for an authorized delay described below, the hearing must be conducted in open court *within 60 days* after the motion is filed. Under the bill and existing law, if the court holds a hearing, it must enter a ruling on the motion within ten days after the hearing, and, if it denies the motion without a hearing, it must enter its ruling within 60 days after the motion is filed.¹

Victim notifications by prosecuting attorneys

Notification of hearing

Currently, if a court schedules a judicial release hearing, it must notify the eligible offender and the head of the state correctional institution in which the offender is confined of the hearing prior to the hearing. The head of the institution immediately must notify the appropriate person at the Department of Rehabilitation and Correction (DRC) of the hearing. The Department within 24 hours after receipt of the notice, must post on the Internet database it maintains the offender's name and specified information. If the court schedules a judicial release hearing, it promptly must give notice of the hearing to the prosecuting attorney of the county in which the eligible offender was indicted.²

Currently, upon receipt of the notice from the court, the prosecuting attorney must notify the victim of the offense for which the stated prison term was imposed or the victim's representative of the hearing if the victim or representative requested notification pursuant to R.C. 2930.16. Under the bill, when a prosecuting attorney receives this notice, the prosecuting attorney must do either of the following:³

(1) As under existing law, notify the victim of the offense for which the stated prison term was imposed or the victim's representative of the hearing if the victim or representative requested notification pursuant to R.C. 2930.16;

(2) If the offense was an "offense of violence" (see "**Offenses of violence**" under "**Background**," below) that is a first, second, or third degree felony, send written notice to the victim or the victim's representative of the hearing regardless of whether the victim or the victim's representative requested notification pursuant to any Revised Code section and, if the victim or representative has not provided the prosecuting attorney with a mailing address, attempt to identify a mailing address for the victim or

¹ R.C. 2929.20(A) to (D).

² R.C. 2929.20(E).

³ R.C. 2929.20(E).

the representative and send the written notice to that address. The bill specifies that this provision, the bill's notice-related provisions described in the second succeeding paragraph, and the bill's notice-related provisions of R.C. 2930.16(D)(1), 2967.12(H), 2967.26(A)(3)(b), 2967.28(D)(1), and 5149.101(A)(2) are to be known as "Roberta's Law."

Notification of grant of judicial release

Currently, if a court grants a motion for judicial release, it must notify the appropriate person at DRC of the judicial release, and DRC must post notice of the release on the Internet database it maintains. Under the bill, if a court grants a motion for judicial release, the prosecuting attorney must send written notice of the judicial release to the victim or the victim's representative at the address provided by the victim or victim's representative pursuant to any section of the Revised Code or the address to which the prosecuting attorney sent notice of the hearing as described in the preceding paragraph.⁴

Crime Victims Rights Law – notices to victim of offender's or delinquent child's potential release and related matters

In general

R.C. Chapter 2930. sets forth the state's Crime Victims Rights Law. Several provisions of that Law specify certain notices that must be given in specified circumstances to the "victim" of a "crime" by a "prosecutor" or "custodial agency" (see "**Crime Victims Rights Law definitions**" under "**Background**," below, for definitions of those terms) if the offender or delinquent child is sentenced to a prison term or term of institutionalization. The notices relate to the potential release of the offender or delinquent child and related matters.⁵ Except for a few specified notices, a victim who wishes to receive any of those notices must make a request for the notice to the prosecutor or the custodial agency that is to provide the notice. If the victim does not make such a request, the prosecutor or custodial agency is not required to provide any of those notices. A prosecutor or custodial agency that is required to furnish any of those notices must give the particular notice to the victim at the address or telephone number provided by the victim. A victim must inform the prosecutor or custodial agency of the name, address, or telephone number of the victim and of any change to that information.⁶

⁴ R.C. 2929.20(K).

⁵ R.C. 2930.16(B) and (C).

⁶ R.C. 2930.03.

After a prosecution in a case has been commenced, the prosecutor or a designee of the prosecutor, or a juvenile court in specified cases, to the extent practicable, promptly must provide to the victim certain specified information. Among the information that the prosecutor or the juvenile court must provide to the victim is notice that most notifications under the Crime Victims Rights Law, including the notices when the offender is sentenced to a prison term, will be given to the victim only if the victim asks to receive the notification.⁷

Operation of the bill

The bill modifies the Crime Victims Rights Law provisions that pertain to victim notification of the potential release of an offender or delinquent child who has been sentenced to a prison term or term of institutionalization, and related matters, in the following ways:

(1) Currently, *upon the victim's request*, the prosecutor promptly must notify the victim of any hearing for judicial release of the defendant or of any hearing for judicial release or early release of the alleged juvenile offender and of the victim's right to make a statement with respect to such a release. The court must notify the victim of its ruling in each of those hearings and on each of those applications. Under the bill, the prosecutor also must notify the victim of any such hearing in the circumstances specified in (4), below, *regardless of whether the victim requested notice*.⁸

(2) Currently, if an offender is sentenced to a prison term under the Sexually Violent Predator Sentencing Law, *upon the request of the victim of the crime*, the prosecutor promptly must notify the victim of any hearing to be conducted pursuant to that Law to determine whether to modify the requirement that the offender serve the entire prison term in a state correctional facility, whether to continue, revise, or revoke any existing modification of that requirement, or whether to terminate the prison term in accordance with that Law. The court must notify the victim of any order issued at the conclusion of the hearing. Under the bill, the prosecutor also must notify the victim of any such hearing in the circumstances specified in (4), below, *regardless of whether the victim requested notice*.⁹

(3) Currently, *upon the victim's request* made at any time before the particular notice would be due, the "custodial agency" of a defendant or alleged juvenile offender must give the victim any of the following that is applicable:

⁷ R.C. 2930.06.

⁸ R.C. 2930.16(B)(1).

⁹ R.C. 2930.16(B)(2).

(a) *At least three weeks before* the Adult Parole Authority (APA) recommends a pardon or commutation of sentence for the defendant or *at least three weeks prior* to a hearing before the Authority regarding a grant of parole to the defendant, notice of the victim's right to submit a statement regarding the impact of the defendant's release and, if applicable, of the victim's right to appear at a full board hearing of the Parole Board to give testimony as authorized by R.C. 5149.101;

(b) *At least three weeks before* the defendant is transferred to transitional control under R.C. 2967.26, notice of the pendency of the transfer and of the victim's right to submit a statement regarding the impact of the transfer;

(c) *At least 30 days before* DYS's release authority holds a release review, release hearing, or discharge review for the alleged juvenile offender, notice of the pendency of the review or hearing, of the victim's right to make an oral or written statement regarding the impact of the crime upon the victim or regarding the possible release or discharge, and, if applicable, of the victim's right to attend and make statements or comments at the hearing as authorized by R.C. 5139.56;

(d) Prompt notice of the defendant's or alleged juvenile offender's escape from a facility of the custodial agency in which the defendant or alleged juvenile offender was incarcerated or placed after commitment, of the defendant's or alleged juvenile offender's absence without leave from a mental health or developmental disabilities facility or from other custody, and of the capture of the defendant or alleged juvenile offender after an escape or absence;

(e) Notice of the defendant's or alleged juvenile offender's death while in confinement or custody;

(f) Notice of the defendant's or alleged juvenile offender's release from confinement or custody and the terms and conditions of the release.

Under the bill, the custodial agency also must notify the victim of any such information in the circumstances specified in (4), below, *regardless of whether the victim requested notice*. The bill also changes the time at which some of the specified notices must be provided as follows:

(a) The notice described above in paragraph (3)(a) must be provided *at least 60 days* before the APA recommends a pardon or commutation of sentence for the defendant or *at least 60 days prior* to a hearing before the APA regarding a grant of parole to the defendant.

(b) The notice described above in paragraph (3)(b) must be provided *at least 60 days before* the defendant is transferred to transitional control.

(c) The notice described above in paragraph (3)(c) must be provided *at least 60 days before* DYS's release authority holds a release review, release hearing, or discharge review for the alleged juvenile offender.¹⁰

(4) The bill provides that, if a defendant is incarcerated for the commission of an "offense of violence" that is a first, second, or third degree felony or if an alleged juvenile offender has been charged with the commission of an act that would be any such offense if committed by an adult, the existing notices described above in paragraphs (1) and (2) that a prosecutor must give to a victim and all of the existing notices described above in paragraph (3) that a custodial agency must give to a victim (modified as described above regarding the time of the notice) *must be given regardless of whether the victim requested notice*. The bill also requires the custodial agency to give similar notice to the prosecutor in the case, the sentencing court, the law enforcement agency that arrested the defendant or alleged juvenile offender, and any other person who requests notification. The custodial agency must attempt to identify a mailing address for the victim and send notice to that address by ordinary mail. The bill specifies that provisions described in this paragraph and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2967.12(H), 2967.26(A)(3)(b), 2967.28(D)(1), and 5149.101(A)(2) are to be known as "Roberta's Law."

A custodial agency must keep a record of notices sent pursuant to the provisions described in this paragraph. The record must be kept in a manner that allows public inspection of notices to persons other than victims without revealing the names, addresses, or other identifying information relating to victims. The record of notices to victims is not a public record. The record of notices to persons other than victims is a public record.¹¹

(5) The bill makes changes in the provisions described above that pertain to procedures and notifications regarding victim requests to conform them to the changes described in paragraphs (1) to (4), above.¹²

Adult Parole Authority Rules – victim conference prior to a parole hearing

The bill requires the APA to adopt rules under the Administrative Procedure Act providing for a victim conference prior to a parole hearing in the case of a prisoner who is incarcerated for the commission of an "offense of violence" that is a first, second, or

¹⁰ R.C. 2930.16(C).

¹¹ R.C. 2930.16(D).

¹² R.C. 2930.03 and 2930.06.

third degree felony. The rules must provide for, but not be limited to, all of the following:¹³

(1) Attendance by the victim, members of the victim's family, the victim's representative, and, if practicable, other individuals;

(2) Allotment of at least one hour for the conference;

(3) The order of priority in which persons in attendance may speak and permission for any person in attendance to speak if time allows;

(4) Attendance by the news media upon request of the victim, members of the victim's family, the victim's representative, or, if none of those persons attend, a victims'-rights advocate;

(5) Recording of the conference by videotape or other media.

Adult Parole Authority recommendations for pardon or commutation of sentence or grant of parole

In general

Currently, except for a release that is related to the state's shock incarceration program, *at least three weeks before* the APA recommends any pardon or commutation of sentence, or grants any parole, it must send a notice of the pendency of the pardon, commutation, or parole, setting forth specified information (see "**Content of the notices**," below) to the prosecuting attorney and the judge or presiding judge of the court of common pleas of the county in which the indictment against the person was found. It also must post on the Internet database it maintains the offender's name and specified information. Further, *if a request for notification has been made* pursuant to the Crime Victims Rights Law, the Office of Victim Services or the APA must send the notice to the victim or the victim's representative at least three weeks prior to taking any of the specified action. When notice of the pendency of any pardon, commutation of sentence, or parole has been given to a judge or prosecutor or posted on the Internet database and a hearing on the pending action is continued to a date certain, the APA must provide notice of the further consideration of the pardon, commutation, or parole *at least three weeks before* the further consideration. When notice of the pendency of any pardon, commutation, or parole has been given to a victim or victim's representative and the hearing on it is continued to a date certain, the APA must give notice of the further consideration to the victim or the victim's representative under R.C. 2930.03.

¹³ R.C. 2930.16(E).

In case of an application for the pardon or commutation of sentence of a person sentenced to capital punishment, the Governor may modify the requirements of notification and publication if there is not sufficient time for compliance with the requirements before the date fixed for the execution of sentence. Special notice provisions apply to an offender serving a prison term under the state's Sexually Violent Predator Sentencing Law. In addition to and independent of any other rights provided by statute, any person may send to the APA at any time prior to its recommending a pardon or commutation or granting a parole for the offender a written statement relative to the offense and the pending action.¹⁴

Operation of the bill

The bill revises the existing notification provisions described above as follows:

(1) Under the bill, the APA must provide notices to a prosecuting attorney and judge of its recommendation of a pardon or commutation of sentence, or the granting of a parole, *at least 60 days before* the APA recommends any pardon or commutation of sentence, or grants any parole. This change also applies to the APA's and Office of Victim Services' notice to the victim or victim's representative.¹⁵

(2) The bill specifies that, if a defendant is incarcerated for the commission of an offense of violence that is a first, second, or third degree felony, the notices to a prosecuting attorney, a judge, and a victim or victim's representative of the APA's recommendation of a pardon or commutation of sentence, or the granting of a parole must be given regardless of whether the victim requested notice. The APA must give similar notice to the law enforcement agency that arrested the defendant and to any other person who requests notification. The APA must attempt to identify a mailing address for the victim and send notice to that address. The APA may give notice to the law enforcement agency and to other persons who request notice by any reasonable means, including telephone and electronic mail. The bill specifies that the provisions described in this paragraph and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2930.16(D)(1), 2967.26(A)(3)(b), 2967.28(D)(1), and 5149.101(A)(2) are to be known as "Roberta's Law." (R.C. 2967.12(B) and (H).)¹⁶

¹⁴ R.C. 2967.12.

¹⁵ R.C. 2967.12(A) and (B).

¹⁶ R.C. 2967.12(H).

Content of the notices

Under existing law, unchanged by the bill, the notices to the prosecuting attorney, judge, and victim described above must include the name of the person on whose behalf the recommendation or grant is made, the offense of which the person was convicted, the time of conviction, and the term of the person's sentence. The notice to the victim also must inform the victim or the victim's representative that the victim or representative may send a written statement relative to the victimization and the pending action to the APA and that, if the APA receives any written statement prior to recommending a pardon or commutation or granting a parole for a person, it will consider the statement before it recommends a pardon or commutation or grants a parole. If the person is being considered for parole, the notice must inform the victim or the victim's representative that a full Board hearing of the Parole Board may be held and that the victim or victim's representative may contact the Office of Victim Services for further information. If the person being considered for parole was convicted of aggravated murder or murder, the notice must inform the victim of that offense, the victim's representative, or a member of the victim's immediate family that the victim, the representative, and the immediate family have the right to give testimony at a full Board hearing of the Parole Board and that the victim or representative may contact the Office of Victim Services for further information.¹⁷

Release from confinement of a convict serving a prison term for a serious felony

In general

Currently, except for a release of a person serving a sentence under the state's Sexually Violent Predator Sentencing Law, at least two weeks before any convict who is serving a sentence for committing a first, second, or third degree felony is released from confinement in any state correctional institution pursuant to a pardon, commutation of sentence, parole, or completed prison term, the APA must send notice of the release to the prosecuting attorney of the county in which the indictment of the convict was found. The notice must contain specified information (see "**Content of the notices**," below) and may be contained in a weekly list of all felons of the first, second, or third degree who are scheduled for release. The notice does not have to be provided if, upon admission to the state correctional institution, the offender has less than 14 days to serve on the sentence.¹⁸

¹⁷ R.C. 2967.12(A) and (B).

¹⁸ R.C. 2967.121.

Operation of the bill

The bill expands the existing release notification provision described above and enacts a new release notification provision as follows:¹⁹

(1) It expands the existing release notification provision so that it also applies to a convict who is serving a sentence of life imprisonment.

(2) It specifies that, except for a release of a person serving a sentence under the state's Sexually Violent Predator Sentencing Law, if a convict who is serving a sentence for committing a first, second, or third degree felony or who is serving a sentence of life imprisonment is released from confinement pursuant to a pardon, commutation of sentence, parole, or completed prison term, the APA must send notice of the release to the prosecuting attorney of the county in which the indictment of the convict was filed. The notice must be sent to the appropriate prosecuting attorney at the end of the month in which the convict is released and may be contained in a monthly list of all convicts who are released in that month and for whom this provision requires a notice to be sent to that prosecuting attorney. This notice must contain the same information that must be in the existing notice to be provided to prosecuting attorneys prior to the release of the convict, and it does not have to be provided if, upon admission to the state correctional institution, the offender has less than 14 days to serve on the sentence.

Content of the notices

Under existing law, unchanged by the bill, the notices described above must contain all of the following: (1) the name of the convict being released, (2) the date of the release, (3) the offense for which the convict was convicted and incarcerated, (4) the date of the conviction pursuant to which the convict was incarcerated, (5) the sentence imposed for that conviction, (6) the length of any supervision the convict will be under, (7) the name, business address, and business phone number of the convict's supervising officer, and (8) the address at which the convict will reside.²⁰

Transitional control program

In general

Existing law authorizes DRC to establish a transitional control program for the purpose of closely monitoring a prisoner's adjustment to community supervision during the final 180 days of the prisoner's confinement. If DRC establishes any such

¹⁹ R.C. 2967.121(A), (B), and (D)(2).

²⁰ R.C. 2967.121(C).

program, the APA may transfer eligible prisoners to transitional control status under the program during the final 180 days of their confinement and under the terms and conditions established by DRC, must provide for the confinement in a specified manner of each prisoner so transferred, and must supervise each prisoner so transferred in one or more community control sanctions. If a prisoner is transferred to transitional control, upon successful completion of the period of transitional control, the prisoner may be released on parole or under post-release control. The rules establishing any such program must include certain specified criteria, including eligibility and confinement criteria. Under existing law, the APA and DRC must provide several notices regarding the potential and actual transfer of a prisoner to transitional control.²¹

Adult Parole Authority notification to sentencing court prior to transfer

Currently, *at least three weeks prior* to transferring to transitional control a prisoner who is serving a prison term, the APA must give notice of the pendency of the transfer to transitional control to the court of common pleas of the county in which the indictment against the prisoner was found and of the fact that the court may disapprove the transfer and must include a report prepared by the head of the state correctional institution in which the prisoner is confined. If the court disapproves of the transfer of the prisoner to transitional control, it must notify the APA of the disapproval within 30 days after receipt of the notice. If the court timely disapproves the transfer, the APA cannot proceed with the transfer. If the court does not timely disapprove the transfer, the APA may transfer the prisoner to transitional control. The bill modifies the provision requiring the notification to the court. Under the bill, the APA must give the court the notice regarding the pendency of the transfer of a prisoner to transitional control and of the right to disapprove the transfer *at least 60 days prior* to the transfer.²²

Adult Parole Authority notice to victim prior to transfer

Currently, if the victim of an offense for which a prisoner was sentenced to a prison term has requested notification under the Crime Victims Rights Law and has provided DRC with the victim's name and address, the APA, *at least three weeks prior* to transferring the prisoner to transitional control, must notify the victim of the pendency of the transfer and of the victim's right to submit a statement to the APA regarding the impact of the transfer of the prisoner to transitional control. If the victim subsequently submits a statement of that nature to the APA, it must consider the statement in

²¹ R.C. 2967.26.

²² R.C. 2967.26(A)(2).

deciding whether to transfer the prisoner to transitional control. The bill modifies the provision requiring the notification to the victim as follows:²³

(1) Under the bill, if the victim of an offense for which a prisoner was sentenced to a prison term has requested notification under the Crime Victims Rights Law and has provided DRC with the victim's name and address *and if the provision described in (2) below, applies*, the APA, *at least 60 days prior* to transferring the prisoner to transitional control, must provide the victim the notice regarding the pendency of the transfer of a prisoner to transitional control and the right to submit a statement.

(2) Under the bill, if a prisoner is incarcerated for the commission of an "offense of violence" that is a first, second, or third degree felony, the notice to a victim of the pendency of the transfer of a prisoner to transitional control and the right to submit a statement must be given regardless of whether the victim requested notice. The APA must send the notice by ordinary mail to an address previously provided by the victim. If the victim has not provided an address, the APA must attempt to identify a mailing address for the victim and send notice to that address. The bill specifies that the provisions described in this paragraph and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2930.16(D)(1), 2967.12(H), 2967.28(D)(1), and 5149.101(A)(2) are to be known as "Roberta's Law."

Department of Rehabilitation and Correction Internet posting prior to transfer

Currently, DRC, *at least three weeks prior* to a hearing to transfer a prisoner to transitional control, must post on the Internet database it is required to maintain the prisoner's name and certain specified information. In addition to and independent of any right or duty of a person to present information or make a statement, any person may send to the APA at any time prior to its transfer of the prisoner to transitional control a written statement regarding the transfer of the prisoner to transitional control. The APA must consider each statement so submitted in deciding whether to transfer the prisoner to transitional control. Under the bill, DRC must post on the Internet database the name of a prisoner who is to be transferred to transitional control and the specified information *at least 60 days prior* to the transfer.²⁴

²³ R.C. 2967.26(A)(3).

²⁴ R.C. 2967.26(A)(4).

Post-release control

In general

Currently, persons sentenced to prison for specified categories of felonies are subjected to mandatory post-release control for either three or five years, depending upon the felony, upon their release from imprisonment. Persons sentenced to prison for a felony not in any of the specified categories may be subjected, at the discretion of the Parole Board, to post-release control for up to three years upon their release from imprisonment. Before the release from imprisonment of a prisoner who is to be subjected to post-release control, the Parole Board must impose upon the prisoner one or more post-release control sanctions to apply during the prisoner's period of post-release control. The post-release control conditions must include a condition that the individual not leave the state without permission and abide by the law and may include other conditions, including any community residential sanction, community nonresidential sanction, or financial sanction.²⁵

Operation of the bill

The bill modifies the categories of prisoners for whom post-release control is mandatory upon release, modifies the duration of the periods of mandatory post-release control, and requires a related notice to be sent to specified persons before a prisoner is released from imprisonment:²⁶

(1) Under the bill, each sentence to a prison term *for an offense that is* a first or second degree felony, a felony sex offense, or a third degree felony that is not a felony sex offense *and that is either an offense of violence* or an offense in the commission of which the offender caused or threatened to cause physical harm to a person must include a requirement that the offender be subject to a period of post-release control after the offender's release from imprisonment (the bill adds the language in italics).

(2) Under the bill, unless reduced by the Parole Board in accordance with a specified procedure when it is authorized to do so, a period of mandatory post-release control imposed for an offender described in (1), above, must be of one of the following periods:

(a) For a first degree felony, a felony sex offense, *or an offense of violence that is a first, second, or third degree felony* (added by the bill), five years;

²⁵ R.C. 2967.28.

²⁶ R.C. 2967.28(B) and (D)(1).

(b) For a second degree felony that is not a felony sex offense *or an offense of violence* (added by the bill), three years;

(c) For a third degree felony that is not a felony sex offense *or an offense of violence* (added by the bill) and in the commission of which the offender caused or threatened physical harm to a person, three years.

(3) The bill specifies that, at least 30 days before the prisoner is released from imprisonment, DRC must send notice by ordinary mail to the victim, the victim's family, the prosecuting attorney in the case, the law enforcement agency that arrested the prisoner, and any other person who requests notification of the date on which the prisoner will be released, the period for which the prisoner will be under parole or post-release control supervision, and the terms and conditions of the prisoner's parole or post-release control. The bill specifies that the provisions described in this paragraph and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2930.16(D)(1), 2967.12(H), 2967.26(A)(3)(b), and 5149.101(A)(2) are to be known as "Roberta's Law."

Department of Rehabilitation and Correction Internet database

In general

Existing law requires DRC to establish and operate on the Internet a database that contains specified information for each inmate in its custody under a sentence imposed for a conviction of or plea of guilty to any offense. Some of the information relates to the inmate and the crime for which the inmate is in custody, and some of it relates to a possible release of the inmate or transfer of the inmate out of a prison.²⁷

Operation of the bill

The bill specifies that, for ten years after the final discharge of an inmate who was imprisoned for the commission of an "offense of violence" that is a first, second, or third degree felony, DRC must keep on the Internet database all the information that it is required to include on the database relative to the inmate.²⁸ The bill also modifies some of the provisions that describe the information that must be on the Internet database that relates to a possible release of an inmate in DRC's custody or a possible transfer of an inmate out of a prison. Under the bill's modifications, for each inmate included on the database, the database must contain all of the following that relates to a

²⁷ R.C. 5120.66.

²⁸ R.C. 5120.66(C).

possible release of the inmate in DRC's custody or a possible transfer of the inmate out of a prison:²⁹

(1) *At least 60 days* (three weeks under existing law) *before* the APA recommends a pardon or commutation of sentence for the inmate or *at least 60 days* (three weeks under existing law) *prior* to a hearing before the APA regarding a grant of parole to the inmate in relation to any prison term the inmate is serving, notice of the fact that the inmate might be under consideration for a pardon or commutation of sentence or will be having a hearing regarding a possible grant of parole, of the hearing date regarding a possible grant of parole, and of the right of any person to submit a written statement regarding the pending action.

(2) *At least 60 days* (three weeks under existing law) *before* the inmate is transferred to transitional control in relation to any prison term the inmate is serving, notice of the pendency of the transfer, the date of the possible transfer, and the right of any person to submit a statement regarding the possible transfer.

Parole-related reports by the Department of Rehabilitation and Correction

The bill requires DRC, at the end of each quarter, to submit to the chairpersons of the committees of the Senate and the House of Representatives that consider criminal justice legislation a report on the number and results of parole hearings conducted during the quarter and a list of persons incarcerated for committing "offenses of violence" (see "**Offenses of violence**" under "**Background**," below) who were granted parole and a summary of the terms and conditions of their parole. DRC must provide the committees with any documentation related to the reports that members of the committees may request. Upon request, DRC must provide a detailed statement, supported by documentation, of the reasons why a particular prisoner was granted parole to the law enforcement agency that arrested the prisoner, the prosecuting attorney who prosecuted the case, or any person who is a member of the General Assembly at the time the person makes the request.³⁰

Restriction on Parole Board's consideration of post-July 1, 1996, sentences in making release decisions for prisoner under a sentence for a pre-July 1, 1996, crime

Existing law requires the Chief of the APA, subject to the approval of the Chief of DRC's Division of Parole and Community Services, to adopt rules governing Parole Board proceedings. The rules must provide for the convening of full Board hearings,

²⁹ R.C. 5120.66(A)(1)(c)(iii) and (iv).

³⁰ R.C. 5149.07.

the procedures to be followed in full Board hearings, and general procedures to be followed in other hearings of the Board and by the Board's hearing officers. The rules also must require agreement by a majority of all the Board members to any recommendation of clemency transmitted to the Governor.

The bill requires the rules adopted by the Chief of the APA to also require that they also prohibit the Parole Board from considering sentences in effect on and after July 1, 1996, in making determinations relative to the release of an inmate who is imprisoned for an offense committed before July 1, 1996³¹ (July 1, 1996, was the effective date of the major restructuring of Ohio's Felony Sentencing Law that generally switched from an indeterminate sentencing system to a determinate sentencing system).

Full Board hearings of the Parole Board

Request for, and notice of, full Board hearing

Currently, a Parole Board hearing officer, a Board member, or the Office of Victim Services may petition the Board for a full Board hearing that relates to the proposed parole or re-parole of a prisoner. At a meeting of the Board at which a majority of its members are present, the majority of those present must determine whether a full Board hearing will be held. Additionally, a victim of an aggravated murder or murder, the victim's representative, or the spouse, parent or parents, sibling, or child or children of the victim of the original offense may request the Board to hold a full Board hearing that relates to the proposed parole or re-parole of the person that committed the violation. If a victim, victim's representative, or other authorized person requests a full Board hearing pursuant to this provision, the Board must hold a full Board hearing.

The bill modifies the categories of victims who may request a full Board hearing so that a victim of an "offense of violence" (see "**Offenses of violence**" under "**Background**," below) that is a first, second, or third degree felony, the representative of such a victim, or the spouse, parent or parents, sibling, or child or children of such a victim may request a full Board hearing that relates to the proposed parole or re-parole of the person that committed the violation (aggravated murder and murder are not classified as any "degree" of felony).

The bill also specifies that, at least 30 days before a full Board hearing, the Board must send notice of the date, time, and place of the hearing by ordinary mail to the victim, the victim's family, the prosecuting attorney in the case, and the law enforcement agency that arrested the prisoner. The APA must send the notice to the

³¹ R.C. 5149.10.

victim and the victim's family to addresses previously provided by them. If the victim or victim's family has not provided an address, the APA must attempt to identify a mailing address for the victim or victim's family and send notice to that address. The bill specifies that the provisions described in this paragraph, and the bill's notice-related provisions of R.C. 2929.20(D)(2) and (I), 2930.16(D)(1), 2967.12(H), 2967.26(A)(3)(b), and 2967.28(D)(1) are to be known as "Roberta's Law."³²

Attendance and presentation of information at full Board hearing

Currently, at a full Board hearing that relates to the proposed parole or re-parole of a prisoner and that is being held under a provision described above, the Parole Board must permit the following persons to appear and to give testimony or to submit written statements: (1) the prosecuting attorney of the county in which the original indictment against the prisoner was found and members of any law enforcement agency that assisted in the prosecution of the original offense, (2) the judge of the court of common pleas who imposed the original sentence upon the prisoner, or the judge's successor, (3) the victim of the original offense for which the prisoner is serving the sentence or the victim's representative, (4) the victim of any behavior that resulted in parole being revoked, (5) with respect to a full Board hearing held pursuant to a request by a victim, victim's representative, or specified family member, the spouse, parent or parents, sibling, or child or children of the victim of the original offense, and (6) counsel or another person designated by the prisoner as a representative.

The bill adds a new provision that specifies that, if the victim of the original offense died as a result of the offense and the offense was an "offense of violence" (see "**Offenses of violence**" under "**Background**," below) that is a first, second, or third degree felony, the family of the victim may show at a full Board hearing a video recording not exceeding five minutes in length memorializing the victim.³³

Voluntary manslaughter – new prohibition when involving sexual motivation

Existing law prohibits a person, while under the influence of sudden passion or in a sudden fit of rage, either of which is brought on by serious provocation occasioned by the victim that is reasonably sufficient to incite the person into using deadly force, from knowingly causing the death of another or the unlawful termination of another's pregnancy. A violation of the prohibition is the offense of "voluntary manslaughter," a felony of the first degree.

³² R.C. 5149.101(A).

³³ R.C. 5149.101(B) and (D).

The bill additionally prohibits a person, with a "sexual motivation" (see below), from engaging in any of the conduct currently prohibited under the offense of voluntary manslaughter. The existing penalty for voluntary manslaughter applies to a violation of the new prohibition.³⁴

As used in the bill's provision, "sexual motivation" means a purpose to gratify the sexual needs or desires of the offender.³⁵

Sex Offender Registration and Notification Law – inclusion of voluntary manslaughter committed with a sexual motivation as a sexually oriented offense under that Law and related changes

Operation of the bill

Definition of "sexually oriented offense"

The Sex Offender Registration and Notification Law (the SORN Law) is contained in R.C. Chapter 2950. It imposes a series of duties and restrictions upon a person who is convicted of or pleads guilty to a "sexually oriented offense" or a "child-victim oriented offense" or who is adjudicated a delinquent child for committing any such offense and who is classified as a "juvenile offender registrant" (see "**SORN Law definitions**" under "**Background**," below). The bill expands the definition of "sexually oriented offense" so that, in addition to the offenses currently included within the definition, it also includes the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the bill (see "**Voluntary manslaughter – new prohibition when involving sexual motivation**," above).³⁶

Definition of "Tier III sex offenders/child-victim offenders"

The SORN Law also categorizes offenders and delinquent children as "Tier I sex offenders/child-victim offenders," "Tier II sex offenders/child-victim offenders," and "Tier III sex offenders/child-victim offenders," depending upon the offense they committed (see "**SORN Law definitions**" under "**Background**," below). The bill expands the definition of "Tier III sex offender/child-victim offender" so that, in

³⁴ R.C. 2903.03(A) to (C).

³⁵ R.C. 2903.03(D), by reference to R.C. 2971.01, not in the bill.

³⁶ R.C. 2950.01(A)(10).

addition to the persons currently included within the definition, it also includes the following:³⁷

(1) A "sex offender" who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to, any of the following sexually oriented offenses: (a) the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the bill, (b) a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to the offense of "voluntary manslaughter" when it is committed with a sexual motivation as described in clause (a) of this paragraph, or (c) any attempt to commit, conspiracy to commit, or complicity in committing the offense of "voluntary manslaughter" when it is committed with a sexual motivation as described in clause (a) of this paragraph;

(2) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the bill and who a juvenile court classifies a Tier III sex offender/child-victim offender relative to the offense;

(3) A sex offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing an offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States that is or was substantially equivalent to "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the bill, if both of the following apply: (a) under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of Tier III sex offender/child-victim offender described in the Ohio definition of the term, and (b) subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an institution of higher education, is employed, or intends to reside in Ohio in any manner and for any period of time that subjects the offender or delinquent child to a duty to register or provide notice of intent to reside under R.C. 2950.04 or 2950.041.

³⁷ R.C. 2950.01(G).

Definition of "public registry-qualified juvenile offender registrant"

The SORN Law also categorizes certain delinquent children as "public registry-qualified juvenile offender registrants" (see "**SORN Law definitions**" under "**Background**," below). The bill expands the definition of "public registry-qualified juvenile offender registrant" so that, in addition to the persons currently included within the definition, it also includes a person who is adjudicated a delinquent child, on whom a juvenile court has imposed a "serious youthful offender dispositional sentence" under R.C. 2152.13 before, on, or after, January 1, 2008, and to whom all of the following apply:³⁸ (1) the person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing a violation that, if committed by an adult, would be the offense of "voluntary manslaughter" when it is committed with a sexual motivation in violation of the new prohibition added by the bill, (2) the person was 14, 15, 16, or 17 years of age at the time of committing the act, and (3) a juvenile court judge classifies the person a juvenile offender registrant, specifies the person has a duty to comply with the SORN Law, and classifies the person a public registry-qualified juvenile offender registrant and the classification has not been terminated pursuant to R.C. 2152.86(D).

Classification of certain juvenile offender registrants as public registry-qualified juvenile offenders

Existing law provides mechanisms for the classification of certain juvenile offender registrants as public registry-qualified juvenile offender registrants. The bill modifies two of the provisions to reflect the expansion in the definition of "public registry-qualified juvenile offender registrant" that it makes, as described above, as follows:³⁹

(1) In the provision that requires each juvenile court that adjudicates a child a delinquent child to issue as part of the dispositional order an order that classifies the child a juvenile offender registrant, specifies that the child has a duty to comply with the SORN Law, and additionally classifies the child a public registry-qualified juvenile offender registrant if the child satisfies all of the criteria for inclusion within the definition of "public registry-qualified juvenile offender registrant," it includes the changes to that definition that are described above.

(2) In the provision that requires each juvenile court, upon a child's release from the Department of Youth Services, to issue an order of the type described in the preceding paragraph if the child was adjudicated a delinquent child and a juvenile

³⁸ R.C. 2950.01(N).

³⁹ R.C. 2152.86.

court imposed on the child a serious youthful offender dispositional sentence under R.C. 2152.13 for committing one of the acts specified in the definition of "public registry-qualified juvenile offender registrant," as described above, if the child was 14, 15, 16, or 17 years of age at the time of committing the act, and if the court did not issue an order classifying the child as both a juvenile offender registrant and a public registry-qualified juvenile offender registrant pursuant to the provision described in the preceding paragraph, it includes the changes to the definition of "public registry-qualified juvenile offender registrant" that are described above.

Background

Offenses of violence

Existing law specifies that, as used in the Revised Code, "offense of violence" means any of the following: (1) a violation of R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2911.12(A)(1), (2), or (3), or 2919.22(B)(1), (2), (3), or (4), or former R.C. 2907.12, (2) a violation of an existing or former municipal ordinance or law of Ohio or any other state or the United States, substantially equivalent to any section, division, or offense listed in clause (1) of this paragraph, (3) an offense, other than a traffic offense, under an existing or former municipal ordinance or law of Ohio or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons, or (4) a conspiracy or attempt to commit, or complicity in committing, any offense under clause (1), (2), or (3) of this paragraph.⁴⁰

Crime Victims Rights Law definitions

Existing law⁴¹ defines a series of terms that are used in the Crime Victims Rights Law. Relevant to the bill are the following definitions:

"Crime" means any of the following: (1) a felony, (2) a violation of R.C. 2903.05, 2903.06, 2903.13, 2903.21, 2903.211, 2903.22, 2907.06, 2919.25, or 2921.04, a violation of former R.C. 2903.07, or a violation of a substantially equivalent municipal ordinance, (3) a violation of R.C. 4511.19(A) or (B), 1547.11(A) or (B), or 4561.15(A)(3) or of a municipal ordinance substantially similar to any of those divisions that is the proximate cause of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident in which the victim receives injuries for which the victim receives medical treatment either

⁴⁰ R.C. 2901.01, not in the bill.

⁴¹ R.C. 2930.01, not in the bill.

at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility, or (4) a motor vehicle accident, if the accident is caused by a violation of a provision of the Revised Code that is a misdemeanor of the first degree or higher and if, as a result of the accident, the victim receives injuries for which the victim receives medical treatment either at the scene of the accident by emergency medical services personnel or at a hospital, ambulatory care facility, physician's office, specialist's office, or other medical care facility.

"Custodial agency" means one of the following: (1) the entity that has custody of a defendant or an alleged juvenile offender who is incarcerated for a crime, is under detention for the commission of a specified delinquent act, or who is detained after a finding of incompetence to stand trial or not guilty by reason of insanity relative to a crime, including DRC or the APA, a county sheriff, the entity that administers a jail, as defined in R.C. 2929.01, the entity that administers a community-based correctional facility and program or a district community-based correctional facility and program, or the Department of Mental Health or other entity to which a defendant found incompetent to stand trial or not guilty by reason of insanity is committed, or (2) the entity that has custody of an alleged juvenile offender pursuant to an order of disposition of a juvenile court, including the department of youth services or a school, camp, institution, or other facility operated for the care of delinquent children.

"Prosecutor" means one of the following: (1) with respect to a criminal case, it has the same meaning as in R.C. 2935.01 and also includes the Attorney General and, when appropriate, the employees of any person listed in R.C. 2935.01 or of the Attorney General, or (2) with respect to a delinquency proceeding, it includes any person listed in R.C. 2935.01(C) or an employee of a person listed in that division who prosecutes a delinquency proceeding.

"Victim" means either of the following: (1) a person who is identified as the victim of a crime or specified delinquent act in a police report or in a complaint, indictment, or information that charges the commission of a crime and that provides the basis for the criminal prosecution or delinquency proceeding and subsequent proceedings to which this chapter makes reference, or (2) a person who receives injuries as a result of a vehicle, streetcar, trackless trolley, aquatic device, or aircraft accident that is proximately caused by a specified violation or a motor vehicle accident that is proximately caused by a specified violation and who receives specified medical treatment, whichever is applicable.

SORN Law definitions

Definitions

The existing SORN Law defines the following terms that are relevant to the bill:⁴²

"Sexually oriented offense" means any of the following violations or offenses committed by a person, regardless of whether the person is 18 years of age or older or is under 18 years of age:

(1) Rape, sexual battery, gross sexual imposition, sexual imposition, importuning, voyeurism, compelling prostitution, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, or illegal use of a minor in nudity-oriented material or performance;

(2) Unlawful sexual conduct with a minor when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct, the other person did not consent to the sexual conduct, and the offender previously has not been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(3) Unlawful sexual conduct with a minor when the offender is at least four years older than the other person with whom the offender engaged in sexual conduct, or when the offender is less than four years older than the other person with whom the offender engaged in sexual conduct and the offender previously has been convicted of or pleaded guilty to rape, sexual battery, unlawful sexual conduct with a minor, or the former offense of felonious sexual penetration;

(4) Aggravated murder, murder, or felonious assault when the violation was committed with a sexual motivation;

(5) Involuntary manslaughter, when the base offense is a felony and when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation;

(6) Menacing by stalking committed with a sexual motivation;

(7) Kidnapping, other than when it is committed for the purpose of engaging in sexual activity with the victim against the victim's will and other than when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious

⁴² R.C. 2950.01.

physical harm or the causing of physical harm to the victim, when the offense is committed with a sexual motivation;

(8) Kidnapping committed for the purpose of engaging in sexual activity with the victim against the victim's will;

(9) Kidnapping when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the victim of the offense is under 18 and the offender is not a parent of the victim of the offense;

(10) Abduction, unlawful restraint, and criminal child enticement committed with a sexual motivation, or endangering children committed by enticing, permitting, using, or allowing, etc., a child to participate in or be photographed for material or performance that is obscene, is sexually oriented matter, or is nudity-oriented matter;

(11) A violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), or (10) under this definition;

(12) Any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), or (11) under this definition.

"Tier III sex offender/child-victim offender" means any of the following (note that the bill expands this definition, as described above in **"Sex Offender Registration and Notification Law – inclusion of voluntary manslaughter committed with a sexual motivation as a sexually oriented offense under that Law and related changes"**):

(1) A "sex offender" who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to, any of the following sexually oriented offenses: (a) rape or sexual battery, (b) gross sexual imposition committed when the victim is less than 12 years of age, the offender intentionally touches the genitalia of the victim, the touching is not through clothing, and the touching is done with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, (c) aggravated murder, murder, or felonious assault when the violation was committed with a sexual motivation, (d) involuntary manslaughter, when the base offense is a felony, when the offender committed or attempted to commit the felony that is the basis of the violation with a sexual motivation, (e) kidnapping committed for the purpose of engaging in sexual activity with the victim against the victim's will, when the victim of the offense is

under 18, (f) kidnapping when it involves a risk of serious physical harm to the victim or, if the victim is a minor, a risk of serious physical harm or the causing of physical harm to the victim, when the victim of the offense is under 18 and the offender is not a parent of the victim of the offense, (g) a violation of any former law of Ohio, any existing or former municipal ordinance or law of another state or the United States, any existing or former law applicable in a military court or in an Indian tribal court, or any existing or former law of any nation other than the United States that is or was substantially equivalent to any offense listed in clause (a), (b), (c), (d), (e), or (f) of this paragraph, (h) any attempt to commit, conspiracy to commit, or complicity in committing any offense listed in clause (a), (b), (c), (d), (e), (f), or (g) of this paragraph, or (i) any sexually oriented offense committed after the sex offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing, any sexually oriented offense or child-victim oriented offense for which the sex offender was classified a Tier II or III sex offender/child-victim offender.

(2) A "child-victim offender" who is convicted of, pleads guilty to, has been convicted of, or has pleaded guilty to any child-victim oriented offense when the child-victim oriented offense is committed after the child-victim offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for committing any sexually oriented offense or child-victim oriented offense for which the offender was classified a Tier II or III sex offender/child-victim offender.

(3) A sex offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any sexually oriented offense and who a juvenile court classifies a Tier III sex offender/child-victim offender relative to the offense.

(4) A child-victim offender who is adjudicated a delinquent child for committing or has been adjudicated a delinquent child for committing any child-victim oriented offense and who a juvenile court classifies a Tier III sex offender/child-victim offender relative to the current offense.

(5) A sex offender or child-victim offender who is not in any category of Tier III sex offender/child-victim offender set forth in paragraph (1) to (4) of this definition, who, prior to January 1, 2008, was convicted of or pleaded guilty to a sexually oriented offense or child-victim oriented offense or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense and classified a juvenile offender registrant, and who, prior to that date, was adjudicated a sexual predator or child-victim predator, or determined to be a habitual child-victim offender and made subject to community notification relative to that offense, unless either of the following applies: (a) the sex offender or child-victim offender is reclassified pursuant to R.C. 2950.031 or 2950.032 as a Tier I or II sex offender/child-victim offender relative to

the offense, or (b) the sex offender or child-victim offender is a delinquent child and a juvenile court classifies the child a Tier I or II sex offender/child-victim offender relative to the offense.

(6) A sex offender who is convicted of, pleads guilty to, was convicted of, or pleaded guilty to a sexually oriented offense, if the sexually oriented offense and the circumstances in which it was committed are such that R.C. 2971.03(F), in the Sexually Violent Predator Sentencing Law, automatically classifies the offender as a Tier III sex offender/child-victim offender.

(7) A sex offender or child-victim offender who is convicted of, pleads guilty to, was convicted of, pleaded guilty to, is adjudicated a delinquent child for committing, or was adjudicated a delinquent child for committing a sexually oriented offense or child-victim oriented offense in another state, in a federal court, military court, or Indian tribal court, or in a court in any nation other than the United States, if both of the following apply: (a) under the law of the jurisdiction in which the offender was convicted or pleaded guilty or the delinquent child was adjudicated, the offender or delinquent child is in a category substantially equivalent to a category of Tier III sex offender/child-victim offender described in paragraph (1), (2), (3), (4), (5), or (6) of this definition and (b) subsequent to the conviction, plea of guilty, or adjudication in the other jurisdiction, the offender or delinquent child resides, has temporary domicile, attends school or an institution of higher education, is employed, or intends to reside in Ohio in any manner and for any period of time that subjects the offender or delinquent child to a duty to register or provide notice of intent to reside under R.C. 2950.04 or 2950.041.

"Public registry-qualified juvenile offender registrant" means a person who is adjudicated a delinquent child and on whom a juvenile court has imposed a "serious youthful offender dispositional sentence" under R.C. 2152.13 before, on, or after, January 1, 2008, and to whom all of the following apply: (1) the person is adjudicated a delinquent child for committing, attempting to commit, conspiring to commit, or complicity in committing a violation of R.C. 2907.02, 2907.05(B), or 2907.03 when the victim was less than 12 years of age, or a violation of R.C. 2903.01, 2903.02, or 2905.01 that was committed with a purpose to gratify the sexual needs or desires of the child, (2) the person was 14, 15, 16, or 17 years of age at the time of committing the act, and (3) a juvenile court judge classifies the person a juvenile offender registrant, specifies the person has a duty to comply with the SORN Law, and classifies the person a public registry-qualified juvenile offender registrant and the classification has not been terminated pursuant to R.C. 2152.86(D).

"Sex offender" means, subject to the provision described in the next sentence, a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty

to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing any sexually oriented offense. "Sex offender" does not include a person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing a sexually oriented offense if the offense involves consensual sexual conduct or consensual sexual contact and either of the following applies: (1) the victim of the sexually oriented offense was 18 years of age or older and, at the time of the sexually oriented offense, was not under the custodial authority of the person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing, the sexually oriented offense, or (2) the victim of the offense was 13 years of age or older, and the person who is convicted of, pleads guilty to, has been convicted of, has pleaded guilty to, is adjudicated a delinquent child for committing, or has been adjudicated a delinquent child for committing the sexually oriented offense is not more than four years older than the victim.

HISTORY

ACTION

DATE

Introduced

04-28-11

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